IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

UNITED	STATES	OF	AMERICA,

Plaintiff

V.

Edwin Maldonado-Fermin,

Defendant

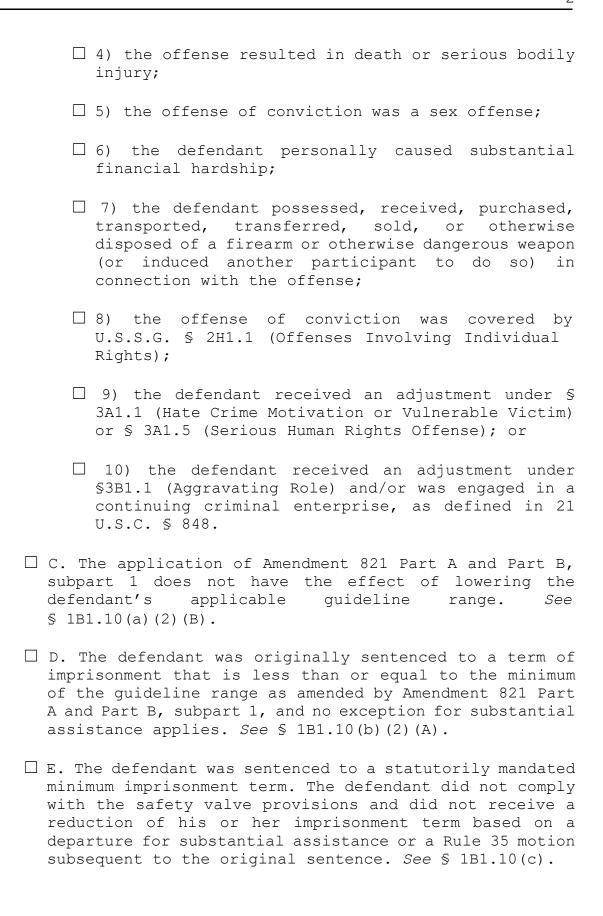
Criminal No. 16-cr-623-1-RAM

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION Re: Amendment 821

The below report and recommendation relates to an initial determination as to the defendant's eligibility for a sentencing reduction promulgated by the United States Sentencing Commission under Part A and Part B, Subpart 1 of Amendment 821 to Policy Statement § 1B1.10(d).

After careful review of the defendant's presentence report, charging document(s), plea agreement, plea supplement, judgment, and statement of reasons, I recommend that:

\square The defendant is <u>not</u> eligible for a sentence on the following factor(s):	e reduction	based
☐ A. The guidelines range that applied in case was not determined by U.S.S.G. defendant's status as a zero-point Chapter 4, Part A.	G. § 4A1.1	(d) or
☐ B. The defendant does not meet <u>all</u> specified by § 4C1.1. Specifically, one following criteria applies:		
☐ 1) the defendant has criminal hist Chapter Four, Part A;	tory points	from
<pre>D 2) the defendant received an a U.S.S.G. § 3A1.4 (Terrorism);</pre>	adjustment	under
\Box 3) the defendant used violence or of violence in connection with the		nreats



Since a determination of ineligibility has been made, the matter is formally submitted to the presiding District Court Judge. Defense counsel, whether retained, appointed, or pro bono, has fourteen days to object to the initial assessment of ineligibility. After the fourteen day period, and in the absence of an objection by defense counsel, the presiding District Court Judge may adopt the recommendation of the Magistrate Judge and may rule on the motion for reduction of sentence.

□ The defendant may be eligible for a sentence reduction and therefore the matter is referred to a United States District Judge.

The presiding judicial officer shall wait for the parties' stipulation of a sentence reduction within fourteen days. If no stipulation is reached within this period, the presiding judicial officer shall wait for the United States Probation Office, defense counsel, and the Government's memoranda, which shall be filed within another fourteen days.

Reasons: As stated in its caption, Defendant's motion was also filed in another case (16-cr-624-1) and a report and recommendation was issued.

Defendant received 3 criminal history points, including 2 for committing the instant offense while serving a criminal justice sentence. Dkt. 122 at 23. Accordingly, he was placed in criminal history category II. *Id.* Given Defendant's total offense level of 31, he had a guideline range of 121 to 151 months. Dkt. 134 (Statement of Reasons) at 1. And he was sentenced to 151 months.

Under Amendment 821, Defendant would not have received 2 criminal history points for committing the instant offense while serving another criminal justice sentence. With 1 criminal history point, he would be placed in criminal history category I. His guideline range would thus be reduced to 108 to 135 months. Accordingly, he may be eligible for a sentence reduction.

IT IS SO RECOMMENDED.

In San Juan, Puerto Rico, this 13th day of March, 2024.

S/ Bruce J. McGiverin
BRUCE J. McGIVERIN

United States Magistrate Judge